THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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DATED: 24-11-2005

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WRIT PETITION No.18290 OF 2005

Between:

B.Satyanarayana Murthy . . .Petitioner

And

The Deputy Conservator, Visakhapatnam. . . .Respondent

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No.18290 OF 2005

O R D E R:

The petitioner is employed as a Fireman in the Visakhapatnam Port Trust. While he was on duty on 07-09-2002, he received information about some alleged fall of his wife and therefore, he left to his residence after obtaining permission. Ultimately, it emerged that she committed suicide.

On the complaint submitted by the parents of his wife, the petitioner was arrested on 09-09-2002 and was released on bail on 28-09-2002. Thereafter, he reported to duty on 30-09-2002. One month thereafter, the respondent placed him under suspension on the ground that he was in judicial custody for more than 48 hours. Disciplinary proceedings were initiated against him. One of the charges was that he suppressed the material information as to his arrest. After considering the explanation submitted by him, the Enquiry Officer submitted a Report on 05-06-2003 holding that the petitioner is guilty of the said charge. A show cause notice was issued on 14-06-2003 and thereafter, the punishment of reduction of pay scale by two stages for a period of one year without cumulative effect, was imposed upon him. Aggrieved thereby, he preferred an appeal and the appeal was rejected through orders, dated 09-12-2003. He challenges the order, dated 14-07-2003.

Learned counsel for the petitioner submits that the petitioner was under the *bona fide* impression that the police officials, who caused his arrest, would have informed the respondent and that there was no intention on his part to suppress the fact. She further contends that the manner, in which the period of suspension was treated, is also contrary to the provisions of the Fundamental Rules.

Learned Standing Counsel for the respondent, on the other hand, submits that the Enquiry Officer recorded a clear finding as to the failure on the part of the petitioner to inform the material fact and that no exception can be taken to the order under challenge. He further contends that the proviso to Fundamental Rule 54-B(5), which enabled an employee, who was placed under suspension, for the benefit of treatment of the period as on duty, in case the major penalty is not imposed, has since been omitted.

It is a matter of record that the petitioner was arrested on 09-09-2002 and released on bail on 28-09-2002. The period was not covered by any leave. It was obligatory on the part of the petitioner to have informed about his arrest of such period, when he reported to duty on 30-09-2002. The respondent came to know about the arrest of the petitioner through other source and the petitioner was placed under suspension on 30-10-2002. The contention of the petitioner that he expected the police officials to inform the factum of his arrest to the

respondent, cannot be accepted. Though certain comments have been made by the appellate authority as to the nature of acquittal, they are purely outside the issue. The petitioner was entitled to be reinstated, once he was acquitted. However, imposition of punishment of reduction of pay by two stages for a period of one year that too without cumulative effect, cannot be said to be disproportionate for the major lapse on the part of the petitioner.

So far as the contention that the period of suspension may be treated as on duty, by virtue of proviso to Fundamental Rule 54-B(5) is concerned, the petitioner cannot be extended the same on account of the fact that the said proviso has been omitted with effect from 22-12-1997.

For the foregoing reasons, this Court does not find any basis to grant any relief to the petitioner.

The Writ Petition is accordingly dismissed. There shall be no order as to costs.

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(L.NARASIMHA REDDY, J)

24th NOVEMBER, 2005.

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